

**Amendments to the Drawings:**

The attached drawing sheet includes new figure 1C. No new matter has been added. Support for the new figure may be found in paragraph [0050] (i.e. "The pattern may also include other types of contact openings ..., such as trenches or vias").

Attachment: New Sheet.

## **REMARKS/ARGUMENTS**

### **1. Summary of the Office Action**

The listing of references in the specification is not a proper information disclosure statement.

Claims 1, 2, 4-6, 10, 13-19, 21-23, 27 and 30-38 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10, 13, 15-16, 172, 177 and 179 of copending Application No. US2004/0021076A1.

Claims 1-13, 15-30 and 32-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamada et al. (U.S. Patent No. 6,768,324 B1).

Claims 14 and 31 are rejected under 35 U.S.C 103(a) as being unpatentable over Yamada et al (U.S. Patent No. 6,768,324 B1).

Claims 35-38 are rejected under 35 U.S.C 103(a) as being unpatentable over Yamada et al (U.S. Patent No. 6,768,324 B1).

### **2. Information Disclosure Statement**

A proper Information Disclosure Statement is being submitted with this response, which lists all patents, publications or other information submitted for consideration.

### **3. Double Patenting**

Because the double patenting rejection in view of a co-pending application No. US2004/0021076A1 is provisional, Applicants submit that when the above-mentioned application matures into a patent, and if the claims are still conflicting, Applicants will file a Terminal Disclaimer at that time.

#### 4. Response to § 102 Rejections

Yamada fails to disclose or suggest the feature of “directing a beam of charged particles along a beam axis that deviates substantially in angle from a normal to a surface of the sample, so as to irradiate one or more of the contact openings in each of a plurality of locations distributed over at least a region of the sample, **wherein the deviation in angle is greater than  $\arctan(1/AR)$ , wherein AR is the ratio of depth to diameter of the one or more contact openings,**” as recited in claim 1. Because Yamada fails to disclose or suggest each and every element of claim 1, claim 1 and its dependent claims are patentable in view of Yamada.

Claim 18 includes a feature of “a particle beam source adapted to direct a beam of charged particles along a beam axis that deviates substantially in angle from a normal to a surface of the sample, so as to irradiate one or more of the contact openings in each of a plurality of locations distributed over at least a region of the sample, **wherein the deviation in angle is greater than  $\arctan(1/AR)$ , wherein AR is the ratio of depth to diameter of the one or more contact openings.**” Because Yamada fails to disclose or suggest each and every element of claim 1, claim 1 and its dependent claims are patentable in view of Yamada.

#### 5. Response to § 103 Rejections

Claims 14 and 31 are dependent on claims 1 and 18 respectively and thus include all elements of their respective parent claims. Yamada fails to disclose or suggest each and every element of claims 1 and 18. Thus, claims 14 and 31 are patentable in view of Yamada for at least the reasons articulated with respect to claims 1 and 18.

Claims 35 and 37 include a feature of “, wherein the deviation in angle is greater than  $\arctan(1/AR)$ , wherein AR is the ratio of depth to diameter of the one or more contact openings.” Yamada fails to disclose or suggest this feature. Because Yamada fails to disclose or suggest each and every element of claims 35 and 37, claims 35 and 37, and their respective dependent claims 36 and 38 are patentable in view of Yamada.

## 6. Conclusion

Having tendered the above remarks and amended the claims as indicated herein, Applicants respectfully submit that all rejections have been addressed and that the claims are now in a condition for allowance, which is earnestly solicited.

If there are any additional fees due in connection with this communication, please charge our deposit account no. 02-2666. If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Elena Dreszer at (408) 947-8200 ext. 209.

Respectfully submitted,

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